THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.20052 OF 1999

DATED: 10-10-2007

Between :

Rajni R Bang .. Petitioner

And

1. The District Collector, Mahaboobnagar,
   Mahaboobnagar District-509 001., and 4 others ..Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.20052 OF 1999

ORDER :

The petitioner being the highest bidder in the tenders floated by the 3rd respondent society purchased an extent of 3 acres of land situated in Sy.No.9 of Kalvakurthi Mandal of Mahaboonagar District. Accordingly a sale deed was executed on 9-1-1990 by the 3rd respondent society and the same was presented for registration before the 5th respondent – Sub-Registrar, Mahaboobnagar. While so, W.P.No.6111 of 1990 was filed by one V. Madusudhana Reddy who claims to be the President of Primary Agricultural Co-operative Society, Kalvakurhi and one V. Prabhakar Reddy, Ex. Sarpanch of Kalvakurthi Gram Panchayat seeking a declaration that the sale of the land in question in favour of the petitioner was arbitrary and illegal. It was alleged by them that the consideration recorded in the sale deed was inadequate and much less than the market value. The said writ petition was disposed of by this Court by order dated 22-2-1996 directing the Registrar of Co-operative Societies to conduct an enquiry and place the enquiry report in the next General Body Meeting of the 3rd respondent society. This Court also directed that till the general body of the 3rd respondent society takes its decision after submission of the enquiry report, the registration of the document in question shall be kept in abeyance.

Having waited for more than 2 years, the petitioner addressed a letter dated 10-10-1998 to the 1st respondent – District Collector

requesting to direct the District Revenue Officer to release the document in her favour. Pursuant thereto, the 1st respondent by letter dated 5-1-1999 informed the petitioner that on the basis of the report received from the Joint Registrar/District Co-operative Officer, Mahaboobnagar dated 25-11-1998, the general body of the 3rd respondent had already cancelled the sale in her favour. It is also stated that the 3rd respondent society was advised to settle the issue by refunding the sale proceedings to the petitioner.

Having received the same, the petitioner addressed a letter dated 20-2-1999 bringing to the notice of the 1st respondent that the action of the respondents 3 and 4 was in total breach of the order in W.P.No.6111 of 1990 and the unilateral cancellation of the sale by the 3rd respondent society was illegal. However, there was no response from the 1st respondent or other respondents. Hence, this writ petition seeking a Mandamus directing the respondents 1, 2 and 5 to release the document of sale dated 9-1-1990 duly registering the same.

In the counter-affidavit filed by the 4th respondent – District Co-operative Officer, Mahaboobnagar, it is stated that the then managing committee of the 3rd respondent society decided to sell 3 acres of land belonging to the society at the rate of Rs.36,000/- per acre, whereas the market value according to the basic register of Sub-Registrar (Assurances) was Rs.140/- per sq. yard. Since the document executed was undervalued, the matter was referred to the District Revenue Officer, Mahaboobnagar for enquiry under Section 47 of the Indian Stamp Act and the registration of the document was kept pending. That apart, the District Collector vide proceedings dated 24-1-1990 authorised the District Co-operative Officer, Mahaboobnagar to conduct an enquiry under Section 51 of the A.P. Co-operative Societies Act, 1964. Meanwhile, by order dated 22-9-1996 in W.P.No.6111 of 1990, this Court directed that the report of the enquiry under Section 51 of the A.P. Co-operative Societies Act

should be placed before the general body of the 3rd respondent society and till a decision was taken the registration of the document should be kept in abeyance. Accordingly, in the general body held on 30-9-1996 the findings of the enquiry under Section 51 of the A.P. Co-operative Societies Act were considered and it was resolved to cancel the sale and to refund the sale proceeds to the writ petitioner. The same was also informed to the advocate of the petitioner vide letter dated 20-4-1998. It is also stated that the enquiry notice was issued to the petitioner and having received the same, the petitioner through her advocate sought an adjournment and on the next date of the enquiry a written affidavit was filed by the petitioner on 17-9-1990 claiming that being the highest bidder she was entitled to purchase the land. The enquiry report submitted by the District Co-operative Officer established that the then Managing Committee of the 3rd respondent society sold the land in question at a throw-away price in collusion with the petitioner. Having regard to gravity of the allegations, the disciplinary enquiry was initiated against the Business Manager of the society and subsequently he was reverted to the post of Junior Inspector as a measure of punishment. The entire action of the respondents being in accordance with law and in compliance with the directions of this Court in W.P.No.6111 of 1990, the relief as prayed for cannot be granted.

The 5th respondent – Sub-Registrar filed a separate counter-affidavit stating that the sale deed was presented by the Business Manager of the 3rd respondent society on 9-1-1990. However, since the document did not reflect the correct market value the document was referred for enquiry under Section 47-A of the Indian Stamp Act vide letter dated 10-1-1990. While so, W.P.No.6111 of 1990 was disposed of by this Court with a direction to keep the document in abeyance till a decision is taken by the general body of the 3rd respondent society. The order dated 22-3-1996 passed by the District

Revenue Officer, Mahaboobnagar affirming the market value of the land in question as Rs.36,000/- per acre was not in accordance with law and therefore an appeal was proposed to be preferred against the said order.

In the counter-affidavit filed on behalf of the 3rd respondent society, it is stated that the sale deed executed in favour of the petitioner was not registered by the 5th respondent since the property was undervalued. The District Collector, vide proceedings dated 24-1-1990 directed the 4th respondent – District Co-operative Officer to conduct an enquiry under Section 51 of the A.P. Co-operative Societies Act and to submit a report. After conducting such enquiry, a report was submitted, in which a finding was recorded that the sale in favour of the petitioner was confirmed without the knowledge of the Managing Committee and without obtaining prior approval from the general body of the society. It was also found that the Ex-Business Manager of the society had indulged in the illegal sale with a *mala fide* intention. Basing on the said report and as per the directions of this Court in W.P.No.6111 of 1990 the general body of the 3rd respondent in its meeting held on 30-9-1996 resolving to cancel the auction. Pursuant thereto, the 3rd respondent society by letter dated 20-1-2000 returned the sale consideration of Rs.1,08,000/- to the writ petitioner through Demand Draft dated 18-1-2000. However, since the petitioner did not accept the same, the amount was deposited by the 3rd respondent society in the Indian Overseas Bank, Mahaboobnagar in fixed deposit.

I have heard the learned Counsel for both the parties and perused the material on record.

The learned Counsel for the petitioner vehemently contended that having executed a registered sale deed in favour of the petitioner, it is not open to the 3rd respondent society to cancel the same unilaterally. The learned Counsel contended that even assuming that

the sale in favour of the petitioner is irregular or illegal on any ground whatsoever, the only remedy available to the 3rd respondent society is to file a civil suit for cancellation of sale deed. In support of his submissions, the learned Counsel for the petitioner placed reliance upon the decision of a Full Bench of this Court in YANALA MALLESHWARI v. ANANTHULA SAYAMMA[1], wherein it was held that the Registering Authority cannot withhold the registration except where the person presenting the document failed to fulfill the statutory requirements under the Registration Act.

In the case on hand, it is not in dispute that the matter was already referred to the District Revenue Officer, Mahaboobnagar, who is the competent authority under the Stamp Act for enquiry as provided under Section 47-A. After such enquiry, admittedly, the District Revenue Officer, vide order dated 22-3-1996 held that the stamp duty paid on the market value at the rate of Rs.36,000/- per acre was correct. The said order has become final and nothing has been placed before this Court to show that any appeal is pending either at the instance of the 3rd respondent or by any other party.

May be that in the enquiry conducted under Section 51 of the A.P. Co-operative Societies Act, 1964, a finding was recorded that the sale effected by the then Managing Committee of the 3rd respondent Society was not valid and pursuant thereto the 3rd respondent society resolved to cancel the sale and refund the sale consideration to the petitioner. However, that by itself does not invalidate the sale in favour of the writ petitioner. Even the order of this Court in W.P.No.6111 of 1990 was only to keep in abeyance the registration till a decision is taken by the society on the basis of the enquiry conducted under Section 51 of the A.P. Co-operative Societies Act, 1964. After such decision is taken, it is for the 3rd respondent society to take appropriate steps in accordance with law for cancellation of the sale deed. Admittedly, till today no steps have

been taken for cancellation of the sale deed in favour of the writ petitioner.

Thus, as on today, the sale deed in favour of the writ petitioner dated 9-1-1990 stands good. The market value of the land in question at the rate of Rs.36,000/- per acre at the relevant point of time was also upheld by the District Revenue Officer, Mahaboobnagar and no other objection could be pointed out to withhold the registration. In the circumstances, I find force in the submission of the learned Counsel for the petitioner that the 5th respondent is not justified in withholding the registration.

Accordingly, the Writ Petition is allowed with a direction to the respondents 1 to 5 to register the document of sale dated 9-1-1990 and release the same to the petitioner forthwith. In case there is any valid objection for registration of the document in question, the same shall be communicated to the petitioner within one week from the date of receipt of this order. No costs.

It is made clear that this shall not preclude the 3rd respondent society to take appropriate steps, if they so choose, for cancellation of the sale deed dated 9-1-1990 following due process of law.

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G. ROHINI, J.

Dt. 10–10-2007
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[1] 2006 (6) ALT 523 (F.B.)